

S.14 FreeHer VT and Cina amendment- 4/13/2023- 10:30 AM

TO THE HOUSE OF REPRESENTATIVES:

The Committee on Judiciary to which was referred Senate Bill No. 14 entitled "An act relating to a report on criminal justice-related investments and trends" respectfully reports that it has considered the same and recommends that the House propose to the Senate that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 28 V.S.A. § 125 is amended to read:

§ 125. JUSTICE REINVESTMENT II INITIATIVES CRIMINAL JUSTICE INVESTMENTS AND TRENDS; REPORT AND WORKING GROUP

(a) Intent. It is the intent of the General Assembly to promote public health and safety by investing state resources into physical and social environments that reduce harm and violence, support recovery and healing, and build resilience and relationships by improving social determinants of health through the infrastructure, policies, practices and spending of the State of Vermont related to the justice system. It is the intent of the General Assembly that the Working Group and that the report on Vermont's criminal justice investments and trends required under this section assist in the systemic assessment of the State's Justice Reinvestment efforts and initiatives to inform future legislative policy and fiscal decisions.

(b) Definitions. As used in this section:

(1) "Arrest" means when a person is seized by law enforcement, charged with the commission of an offense, and referred for prosecution.

(2) "Clearance" means the process by which a law enforcement agency closes an offense by arrest or exceptional means in accordance with the Federal Bureau of Investigation's Uniform Crime Reporting Program.

(3) "Desistance" means the process by which criminality, or the individual risk for antisocial conduct, declines over the life-course of the individual, generally after adolescence.

(4) "Exceptional means" means the death of the offender, the victim's refusal to cooperate with the prosecution after the offender is identified, the denial of extradition because the offender committed a crime in another jurisdiction and is being prosecuted for that offense, or other circumstance in accordance with the Federal Bureau of Investigation's Uniform Crime Reporting Program.

(5) "Recidivism" has the same meaning as in section 4 of this title.

(c) Report.

(1) On or before January November 15 each year, 2024 and every three years thereafter, the Commissioner of Corrections Vermont Statistical Analysis Center (SAC), in consultation with the Commissioners of Corrections, of Health, of Mental Health, of Public Safety, of Labor, and for Children and Families and; the Attorney General; the Chief Superior Judge of the Superior Court; the Division of Racial Justice Statistics; and the Parole Board Director, shall submit a report to the House Committees on Appropriations, on Judiciary, and on Corrections and Institutions and, the Senate Committees on Appropriations and on Judiciary detailing the expenditures on Justice Reinvestment II and the following related initiatives:

(1) funding for domestic violence intervention programming in the Department of Corrections;

(2) funding for offender ~~transitional~~ housing capacity with the Department of Corrections ~~and~~, other departments, and in the community, in general;

(3) funding for the Department of Corrections' data collection Offender Management System;

(4) funding for community-based health care, including mental health and substance use disorder services, for individuals under Department of Corrections supervision;

(5) funding provided for diversion and restorative justice programs including community justice centers, court diversion, and balanced and restorative justice (BARJ); and

(6) funding provided for alternatives to incarceration;

(7) funding provided for nutrition services and food security for individuals under Department of Corrections supervision;

(8) funding provided for services that offer social and economic opportunities for individuals under Department of Corrections supervision, including family support services;

(9) funding provided for educational and vocational services for individuals under Department of Corrections supervision;

(10) funding and a description of any other General Fund expenditures for Justice Reinvestment II initiatives., the Joint Legislative Justice Oversight Committee, and the

Executive Director of the Office of Racial Equity examining the trends associated with Vermont's criminal justice-related investments and expenditures since the last report was submitted pursuant to this section.

(2) The report required pursuant to subdivision (1) of this subsection shall include data showing:

(A) recidivism rates;

(B) clearance rates;

(C) evidence of desistance, including successful completion of community supervision;

(D) returns to incarceration from community supervision with the following relevant data points:

(i) community supervision type, classified by probation, parole, and furlough;

(ii) an indication if a return was for a violation or a new charge, including the crime type;

(iii) an indication if a violation was classified as "significant/not violent" or "significant and violent" for any applicable statuses; and

(iv) all available demographic information;

(E) bail rates, including detainees held without bail, detainees held with bail and the associated monetary amounts, and bailees who post bail and are released;

(F) pretrial detainees held in Vermont correctional facilities, including the crime type and jurisdiction for which they are held;

(G) the funding for, and utilization of, substance use disorder treatment, health care, mental health, educational, and vocational initiatives for incarcerated individuals; and

(H) the funding for, and utilization by, individuals served through Justice Reinvestment II and related initiatives, including:

(i) domestic violence intervention programming in the Department of Corrections, including the results from the evaluation framework between the Vermont Network Against Domestic and Sexual Violence and the University of Nebraska;

(ii) offender transitional housing capacity with the Department of Corrections and, other departments, and in the community;

(iii) advancements to the Department of Corrections' data collection Offender Management System;

(iv) agencies, departments, municipalities, programs, and services employing restorative justice principles, including community justice centers;

(v) other General Fund expenditures for Justice Reinvestment II initiatives;

(vi) the Department of Corrections' out-of-state beds contracted by the Department and the average cost per bed in fiscal year 2019 and for each fiscal year thereafter; ~~and~~

(vii) the Department of Corrections' in-state beds, separated by gender, including specialty units and units closed or unavailable in fiscal year 2019 and for each fiscal year thereafter, ~~and~~

(viii) impact of alternatives to incarceration.

(b) The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this section.

(d) Informational availability.

(1) The information required pursuant to subsection (c) of this section shall include race, gender, age, and other demographic variables whenever possible.

(2) The report required pursuant to subsection (c) of this section shall explain any obstacles or impediments to the availability and collectability of data required pursuant to this section, including whether collecting certain data would put particular populations at risk, along with the substance use and mental health needs and educational and vocational status of justice-involved individuals.

(e) Data sharing. Notwithstanding any provision of law to the contrary, all State and local agencies and departments that possess the data necessary to compile the report required pursuant to this section shall, upon request, provide SAC with any data that it determines is relevant to the report. The obligation to disclose shall supersede any other legal obligation with respect to the data required pursuant to this section, and a department, agency, or other entity shall not decline to disclose data required based on any other purported legal obligation.

(f) Confidentiality. Any data or records transmitted to or obtained by SAC are exempt from public inspection and copying under the Public Records Act and shall be confidential to the extent required by law unless and until the data or records are included in the report required by this section. A State or local agency or department

that transmits data or records to SAC shall be the sole records custodian for purposes of responding to requests for the data or records. SAC may direct any request for these data or records to the transmitting agency or department for response.

## Sec. 2. WOMEN'S CORRECTIONAL FACILITY REPLACEMENT; WORKING GROUP; REPORT

(a) Creation. There is created the Justice-Involved Women Working Group to advise the Department of Corrections on the replacement of the Chittenden Regional Correctional Facility with trauma-informed and gender-responsive housing and programming to promote the successful recovery, rehabilitation, and re-entry of justice-involved women. The Working Group shall conduct its work through a lens of transformative justice employing restorative justice principles and trauma-informed approaches.

(b) Purpose. The purpose of the Working Group is to transform Vermont's criminal justice and correctional system by eliminating the need for State-funded and -operated correctional facilities and institutions through the creation of a community-based system of care, rehabilitation, and housing that reduces recidivism and promotes recovery for all individuals that includes:

- (1) accessible, equitable, and localized services throughout the State;
- (2) secure and comprehensive housing for those in recovery and those at risk of self-harm and harm to others;
- (3) stronger treatment, educational, and workforce training options incorporated into localized and equitable residential programs;
- (4) pathways to economic security by providing access to fair compensation opportunities, financial services, and capital for home ownership and small business development; and
- (5) nurturing healthy relationships to assist persons whose actions have contributed to individual or community harm with repairing the harm caused by their actions and connecting with family and other community supports.

(c) Membership. The Working Group shall be composed of the following members:

(1) not less than four representatives of community-based organizations that provide services to justice-involved women at the Chittenden Regional Correctional Facility, including:

(A) the Executive Director of the Vermont Network Against Domestic and Sexual Violence or designee;

- (B) the Executive Director of Vermont Works for Women or designee;
- (C) the Executive Director of Mercy Connections, Inc. or designee; and
- (D) the Executive Director of Lund, Inc. or designee;
- (2) the Executive Director of the Vermont Commission on Women or designee;
- (3) the Executive Director of the American Civil Liberties Union Vermont or designee;
- (4) a representative of the Prisoners' Rights Office, appointed by the Defender General;
- (5) the Executive Director of the Vermont Interfaith Action Committee or designee; and
- (6) not less than two representatives from advocacy organizations:

- (A) The FreeHer Vermont organizer of The National Council of Incarcerated or Formerly Incarcerated Women and Girls or designee; and

- (B) the Women's Justice and Freedom Initiative or designee.

- (7) not less than three individuals with lived experience with incarceration in the criminal justice system, appointed by the Vermont Commission on Women, The National Council of Incarcerated or Formerly Incarcerated Women and Girls, and the Women's Justice and Freedom Initiative.

- (8) not less than two individuals with lived experience working as correctional staff appointed by Vermont State Employees' Association.

(c) Powers and duties. The Working Group shall collaborate with the Department of Corrections to create a plan for the replacement of the Chittenden Regional Correctional Facility that:

- (1) incorporates trauma-informed and gender-responsive design principles;
- (2) uses a data-driven approach that aligns with Vermont's criminal justice reform objectives in developing the proposed size and scale of replacement facilities;
- (3) considers a community-based re-entry facility as part of a continuum of housing and additional alternatives;
- (4) integrates the Working Group's input on programming and wraparound services provided by the Department of Corrections to justice-involved women across the continuum of housing, including community, correctional facilities and re-entry settings;

(5) includes participation from focus groups of women currently experiencing incarceration conducted through a lens of transformative justice employing restorative justice principles and trauma-informed approaches; and

(6) includes participation from focus groups of correctional staff conducted through a lens of transformative justice employing restorative justice principles and trauma-informed approaches; and

(7) Recommend potential decarceration strategies from the existing Chittenden Regional Correctional Facility to a continuum of housing for justice involved women providing alternatives to incarceration; and

(8) ensures involvement by the Department of Corrections, the Department of Building and General Services, individuals with expertise in the criminal justice system, interested stakeholders, and others designated by the Working Group.

(9) plan for implementation of recommendations of the [Health Equity Advisory Commission](#) in the training of staff from correctional to community-based settings

(d) Assistance. The Working Group shall have the administrative, technical, and legal assistance of the Department of Corrections and the Department of Building and General Services.

(e) Report. On or before February 15, 2024, and annually thereafter, the Working Group shall report to the House Committees on Corrections and Institutions and on Judiciary and the Senate Committees on Institutions and on Judiciary on any progress and recommendations.

(f) Meetings.

(1) The Executive Director of the Vermont Network Against Domestic and Sexual Violence or designee shall call the first meeting of the Working Group to occur on or before July 15, 2023.

(2) The Committee shall select a chair from among its members at the first meeting.

(3) The Committee shall meet not less than six times per year.

(4) A majority of the membership shall constitute a quorum.

(g) Compensation and reimbursement.

(1) Members of the Working group who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010. These payments shall be made from monies appropriated to Agency of Human Services.

### Sec. 3. SUNSET OF REPORT AND WORKING GROUP

28 V.S.A. § 125 is repealed on July 1, 2028. No funding shall be allocated for further study, design, or construction on a new or existing correctional facility beyond required maintenance or to comply with building code requirements until the sunset of the report and Working Group.

Sec. 4. 28 V.S.A. § 126 is added to read:

### § 126. JUSTICE REINVESTMENT SPECIAL FUND

(a) There is established the Justice Reinvestment Special Fund, which shall be managed in accordance with 32 V.S.A. chapter 7, subchapter 5. The purpose of this Fund shall be to support Justice Reinvestment in Vermont, which is a data-driven approach to improve public safety, reduce corrections and related criminal justice spending, and reinvest savings in strategies that can decrease crime and delinquencies, as well as reduce recidivism, and improve social determinants of health. The Fund's monies shall be used to financially support publicly and privately administered community-based service programs of Vermont's Justice Reinvestment initiatives, including domestic violence intervention programming, offender transitional services, and community justice entities that receive State funding for programs and services employing restorative justice principles. The Fund's monies shall be used to financially support housing for justice involved individuals, from the most restrictive to the least restrictive settings, including secure residential options. The Fund's monies shall be used to financially support a comprehensive range of community-based wraparound services that support individuals, families, and communities to maintain recovery and build resilience.

(b) The Justice Reinvestment Special Fund shall consist of:

- (1) any unexpended funds for the Department of Corrections' out-of- state beds;
- (2) fund transfers made pursuant to section 127 of this title; and
- (3) appropriations by the General Assembly.



Sec. 5. 28 V.S.A. § 127 is added to read:

§ 127. JUSTICE REINVESTMENT; BUDGET; FUNDS TRANSFER

(a) The Commissioner of Corrections shall include a separate line item for the Justice Reinvestment Special Fund in the proposed annual budget for the Department of Corrections.

(b) The Commissioner of Corrections shall transfer not less than \$900,000.00 in any single fiscal year to the Justice Reinvestment Special Fund from funds appropriated to the Department of Corrections by the General Assembly.

(c) Funds may be transferred pursuant to this section without further approval or appropriation by the General Assembly.

Sec. 6. 28 V.S.A. § 128 is added to read:

§ 128. JUSTICE REINVESTMENT ADVISORY COUNCIL

(a) Creation. There is created the Justice Reinvestment Advisory Council to support Justice Reinvestment in Vermont, which is a data-driven approach to improve public safety, reduce corrections and related criminal justice spending, and reinvest savings in strategies that can decrease crime and delinquencies, as well as reduce recidivism, and improve social determinants of health. In furtherance of its Justice Reinvestment support objective, the Council shall review and provide data-driven recommendations related to priorities and appropriations for Justice- Reinvestment initiatives.

(b) Membership. The Justice Reinvestment Advisory Council shall be composed of the following members:

- (1) the Attorney General or designee;
- (2) the Chief Superior Judge of the Vermont Superior Court or designee;
- (3) the Commissioner of Corrections or designee;
- (4) the Commissioner for Children and Families or designee;
- (5) the Executive Director of the Vermont Center for Crime Victim Services;
- (6) the Executive Director of the Vermont Statistical Analysis Center or designee;
- (7) one current member of the House of Representatives selected from the Committee on Appropriations, the Committee on Corrections and Institutions, or the Committee on Judiciary, appointed by the Speaker of the House; and

(8) one current member of the Senate selected from the Committee on Appropriations or the Committee on Judiciary, appointed by the Committee on Committees.

(c) Powers and duties. The Justice Reinvestment Advisory Council shall:

(1) Review all legislative appropriations and reauthorizations related to Justice Reinvestment initiatives made during the most recent fiscal year.

(2) Consult with ~~Department of Mental Health~~ the Agency of Human Services, the Department of State's Attorneys and Sheriffs, the Office of the Defender General, the Vermont Network Against Domestic and Sexual Violence, and community justice entities that receive State funding for programs and services employing restorative justice principles on the potential uses and priorities of funding for Justice Reinvestment initiatives.

(3) Provide opportunities for meaningful input and participatory decision making for impacted communities, including justice involved individuals and their families, conducted through a lens of transformative justice employing restorative justice principles and trauma-informed approaches;

(4) On or before November 15, 2023, and annually thereafter, recommend to the Commissioner of Finance and Management the appropriate allocation of funds from the Justice Reinvestment Special Fund for the purposes of developing the State budget required to be submitted to the General Assembly pursuant to 32 V.S.A. § 306. All recommendations from the Council should prioritize the use of unexpended out-of-state beds funds to support Justice Reinvestments initiatives that are community based.

(5) On or before November 15, 2023, and annually thereafter, recommend to the Commissioner of Corrections the appropriate allocation of the Department of Corrections' funds to support community-based Justice Reinvestment initiatives for the purposes of developing the State budget required to be submitted to the General Assembly pursuant to 32 V.S.A. § 306.

(d) Assistance. The Justice Reinvestment Advisory Council shall have the administrative, technical, and legal assistance of the Office of the Attorney General, the Department of Corrections, and the Department for Children and Families for those issues and services within the jurisdiction of the respective office or department.

(e) Report. On or before November 15, 2023 and annually thereafter, the Justice Reinvestment Advisory Council shall submit its recommendations pursuant to

subdivisions (c)(3) and (c)(4) of this section to the Senate Committees on Appropriations and on Judiciary and the House Committees on Appropriations, on Corrections and Institutions, and on Judiciary.

(f) Meetings; officers; committees; rules; compensation; term.

(1) The Chief Superior Judge of the Vermont Superior Court or designee shall call the first meeting of the Justice Reinvestment Advisory Council on or before July 15, 2023.

(2) The Chief Superior Judge of the Vermont Superior Court or designee shall serve as the Chair of the Council.

(3) The Council may elect additional officers from its members, establish committees or subcommittees, and adopt procedural rules or bylaws as necessary and appropriate to perform its work.

(4) Members who are appointed to the Council shall be appointed for terms of three years, except that initial appointments shall be made such that two members appointed by the Governor shall be appointed for a term of one year. Vacancies on the Council shall be filled for the remaining period of the term in the same manner as initial appointments.

(5) A majority of the membership shall constitute a quorum.

(6) Members of the Council who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010.

Sec. 7. EFFECTIVE DATE

This act shall take effect on passage, except that Secs. 4 (Justice Reinvestment Special Fund) and 5 (justice reinvestment; budget; transfer) shall take effect on October 1, 2023.

(Committee vote: \_\_\_\_\_)

\_\_\_\_\_ Representative \_\_\_\_\_ FOR THE COMMITTEE